

make good his promise in his opening of showing that if Morgan Smith bought the pistol, and that evidence had not been submitted to show that the prisoner killed Young.

In answering this argument, Mr. Rand said, that the manner in which Young had been killed was in itself enough to submit the case to the jury. It was a question, he said, of whether the man or the woman fired the pistol.

"I did not state that I would prove that J. Morgan Smith bought the pistol," Mr. Rand said. "I knew what Hyman Stern would testify to when I put him on the stand. But I don't believe in a person who doubts that J. Morgan Smith bought that pistol, and I am far from yielding that branch of the case. Either this defendant or her paramour bought that pistol, and it is a question for the jury to decide."

Recorder Goff denied the motion without any comment. Then Mr. Levy asked for an adjournment until Monday morning. Mr. Rand wanted it stipulated whether or not Mr. Levy intended making a defense.

DECEASED TO MAKE NO DEFENSE.

Mr. Levy begged for time until the Recorder announced that if he did not make a decision at once, he would hold court to-day. Mr. Levy said that it was his Sunday, but that he did not move the Recorder, who finally suggested that the prisoner's counsel get together for an hour and decide. The Recorder adjourned court and Messrs. Levy, Unger, O'Reilly, Rand and Garvan moved over to the corner in the room.

Finally the three lawyers for the defense went over to the Tombs, where they had a ten minutes conference with Nan Patterson, her father, J. Rand, and her son, Mrs. Julia Smith and Morgan Smith. At the end of the conference, Mr. Levy announced that no defense would be made, and that he would begin with the case at 10:30 o'clock on Monday morning. Nan Patterson said:

"I feel that as to the outcome it is rocky. My sister did nothing and would do nothing to hurt me."

There is no need of making a defense, said Mr. Levy. "No case has been made out against my client."

When Mrs. Smith took the stand at the opening of yesterday's session, she was Mr. Rand's witness, but before the day was over, Mr. Levy had made her his and this gave Mr. Rand a chance to cross-examine her. As a result, the testimony which was considered damaging to the chorus girl got in.

Mr. Rand first asked Mrs. Smith if after the visit of Leslie Coggins, who got her "baby" later on, she had said anything to Coggins. Mrs. Smith denied that she had said anything to Coggins.

"Did you say anything about doing anything to herself or Mr. Young?"

"No, she did not."

"Did she say anything about what the consequences would be unless Young made good his marriage promise?" asked Mr. Rand. Mrs. Smith flinched and after a long pause answered:

"Mrs. Smith said that at no time did the defendant say anything about what the consequences to Young might be. Mr. Rand asked her if she had written a letter, and wanted to know if she had written to Young that unless he saw her (Mrs. Smith) she couldn't assume any responsibility."

"That letter was written," said the witness, "in answer to my feelings after hearing what Mr. Coggins said, and what my sister had said to me."

"Did you write that letter as the result of the state of feelings of what your sister had told you?"

Again Mrs. Smith carried the question, and Mr. Rand put it in this form:

"Did you write that letter, and did it represent your state of feeling as the result of your conversation with your sister?"

Mrs. Smith tried in every way to avoid giving a definite answer. The Recorder directed her to answer and she said: "As I recollect it, yes."

QUESTIONS ABOUT YOUNG'S LETTERS.

Mr. Rand then asked her about the hundred-odd letters written by Young to Mrs. Patterson, which she had said she had sent to Mr. Levy. These letters, Mrs. Smith testified, were taken from Nan Patterson's writing desk in Mrs. Smith's room at the St. Paul Hotel. After Young's death, Mrs. Smith testified that she had written the "Dear Nue" letter. Mr. Rand attempted to have it introduced in evidence, but it was ruled out.

Mr. Levy's examination of the witness was very brief. She said that on the morning of June 3 she got up about 11 o'clock and with her husband went to her breakfast. They stayed at the breakfast table, and got back to the thirty-fourth street station at 1:30 o'clock. There had been an accident at the ferry, she said, and an ambulance was waiting. From the ferry side and her husband went to their apartment at the St. Paul Hotel. There got there about 7 o'clock.

BOUGHT NO PISTOL, MR. SMITH SAYS.

"Did you visit any pawnshop on that day, you and your husband?"

"No, sir, we did not."

"Did you visit Stern's pawnshop on that day?"

"No, sir, we did not," said Mrs. Smith, very positively.

About 8 o'clock that night, she continued, she and her husband went to Healy's restaurant. At six o'clock she and her husband, before leaving the hotel, Nan Patterson told the clerk that she and her husband were going to the restaurant. When they returned to the hotel they said that Young had telephoned to them at 1:30 o'clock and told them that if Miss Patterson called to tell her to stay at the St. Paul until he called her again. The telephone message from Young came for her to say that she was at Healy's, but if any one else called to say that she was out.

The trio returned to the hotel about 8:30 o'clock, and Nan Patterson was informed that Cesar Young had called her up and that he had been told that she was at Healy's restaurant. The trio then went to the restaurant, and when they returned to the hotel they said that Young had telephoned to them at 1:30 o'clock and told them that if Miss Patterson called to tell her to stay at the St. Paul until he called her again. The telephone message from Young came for her to say that she was at Healy's, but if any one else called to say that she was out.

When Nan Patterson returned to the St. Paul Hotel between 3 and 4 o'clock the next morning, Mrs. Smith said that she was calm and normal, but didn't look particularly happy.

"She told me she had said good-bye to Cesar Young," testified Mrs. Smith. She then told of Young telephoning the next morning of her she got Nan Patterson out of bed, and of her sister leaving the hotel to meet Young. She said that her sister was leaving the room she had been in, and that she saw her sister's handkerchief. Mr. Levy then brought Mrs. Smith up to the time she saw her sister in the Coroner's office, and then stopped his examination.

Judge Foster had practically decided to dismiss the indictment on Monday, on the ground that there was no evidence against the client.

Mrs. Smith persistently refused to say whether she and her husband left the city and went to Hoboken, whether or not she and her husband had taken a long journey in March. She said that she heard that Hyman Stern was in Toronto in March, that Hyman Stern was in Toronto when Mr. Rand asked her if she and her husband left there when she heard that Stern was there.

Mr. Rand showed her a letter which she said was in her handwriting, and asked her if she knew what the letter "S" (supposed to refer to Stern) meant. She said she refused to answer to him. Mr. Rand said that the letter was tantamount to an admission that she and her husband were concerned in the purchase of the revolver.

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GEN. FITZHUGH LEE DEAD.

STRICKEN WITH APPOXY ON THE FEDERAL EXPRESS.

He Was on His Way From Boston to Washington and Was Found Unconscious in Berth as Train Was Passing Mott Haven—Dies in Hospital in Washington.

WASHINGTON, April 28.—Gen. Fitzhugh Lee, cavalry commander in the Confederate Army during the civil war, former Governor of Virginia, a Major-General of Volunteers in the war with Spain and now a retired Brigadier-General of the United States Army, died here to-night of apoplexy.

He was stricken last night as he lay in a train from Boston, and on his arrival here this morning was removed to a hospital.

He was attended on the train by Dr. Richard C. Cabot of Boston, a fellow passenger, and by Dr. Schull of the Pennsylvania Railroad. Surgeon-General O'Reilly and Surgeons Kern, Edie and Mason of the army met Gen. Lee at the station to render any assistance needed, and after his removal to the hospital they pronounced his condition serious.

He recovered consciousness, however, and at 1 o'clock this afternoon Major Edie issued a bulletin saying that he had suffered a stroke of apoplexy. His left side was affected by paralysis, but notwithstanding the apparently alarming condition, the physicians said that he had a chance for recovery. There was no great change in his symptoms until late this evening.

At 11 o'clock the attending physicians issued the following bulletin:

"Gen. Lee has had a turn for the worse. Respiration is difficult and pulse is not so good."

He continued to sink until the end came at 11:30.

Gen. Lee went to Boston to urge that the Commonwealth of Massachusetts erect a building at the Jamestown exposition. He is president of the exposition company and has been working for the success of the project in New York, Pennsylvania and New Jersey.

Gen. Lee was born in 1824 in Virginia. He was a member of the Virginia House of Delegates, and was elected to the United States Congress in 1856. He was a member of the Virginia House of Delegates, and was elected to the United States Congress in 1856.

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